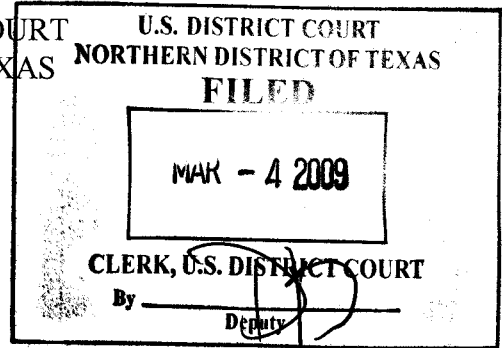


ORIGINAL

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



UNITED STATES OF AMERICA,

Plaintiff,

v.

JPI CONSTRUCTION, L.P.; MULTIFAMILY  
CONSTRUCTION, L.L.C.; JPI APARTMENT  
DEVELOPMENT, L.P. D/B/A JPI CAMPUS  
QUARTERS; LIFESTYLE APARTMENT  
DEVELOPMENT SERVICE, L.L.C.; JEFFERSON  
BEND, L.P. D/B/A JEFFERSON AT MISSION GATE  
APARTMENTS; JEFFERSON LAKE CREEK, L.P.  
D/B/A JEFFERSON CENTER APARTMENTS; and  
APARTMENT COMMUNITY REALTY, L.L.C.

Defendants.

3-09 CV 0412-B

Civil Action No.

**COMPLAINT**

The United States of America alleges:

1. This action is brought by the United States to enforce the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 ("Fair Housing Act"), 42 U.S.C. §§ 3601-3619, and Title III of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. §§ 12181-12189.

**Jurisdiction and Venue**

2. The Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. §§ 3614(a) and 12188(b)(1)(B). The Court may grant declaratory and other relief pursuant to 28 U.S.C. §§ 2201 and 2202.

3. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1392 because a substantial part of the events or omissions giving rise to the claims alleged in this action arose in the Northern District of Texas.

#### **Properties**

4. Jefferson at Mission Gate ("Mission Gate") is an apartment property located at 8025 Ohio Drive, Plano, Texas 75024-2316. Mission Gate has a rental office.

5. Jefferson Center Apartments ("Jefferson Center") is an apartment property located at 8701 West Palmer Lane, Austin, Texas 78729-4941. Jefferson Center has a rental office.

#### **The Defendants**

6. Defendant JPI Construction, L.P. is a limited partnership organized under the laws of Delaware and registered to do business in Texas and other states, with its principal place of business at 600 E. Las Colinas Boulevard, Suite 1800, Irving, Texas 75039-5625. Defendant JPI Construction, L.P. is a general contractor for multi-family housing, including housing that was built for first occupancy after March 13, 1991. It works with other JPI-related companies engaged in the development of multi-family housing. It was the general contractor for Mission Gate and Jefferson Center, and, in those capacities, was involved in the design and construction of Mission Gate, Jefferson Center, and other covered multi-family dwellings.

7. Defendant Multifamily Construction, L.L.C. is a limited liability company organized under the laws of Delaware and registered to do business in Texas and other states, with its principal place of business at 600 E. Las Colinas Boulevard, Suite 1800, Irving, Texas 75039-5625. Defendant Multifamily Construction, L.L.C. is a general partner of Defendant JPI Construction, L.P. and engages in the business of constructing multi-family housing properties.

In that capacity, Defendant Multifamily Construction, L.L.C. was involved in the design and construction of Mission Gate, Jefferson Center, and other covered multi-family dwellings.

8. Defendant JPI Apartment Development, L.P., also doing business as JPI Campus Quarters, is a limited partnership under the laws of Delaware and registered to do business in Texas and other states, with its principal place of business at 600 E. Las Colinas Boulevard, Suite 1800, Irving, Texas 75039-5625. Defendant JPI Apartment Development, L.P. was an owner and developer of Mission Gate and Jefferson Center during the design and construction of Mission Gate and Jefferson Center, and, in those capacities, was involved in the design and construction of Mission Gate, Jefferson Center, and other covered multi-family dwellings.

9. Defendant Lifestyle Apartment Development Service, L.L.C. is a limited liability company under the laws of Delaware and registered to do business in Texas and other states, with its principal place of business at 600 E. Las Colinas Boulevard, Suite 1800, Irving, Texas 75039-5625. Defendant Lifestyle Apartment Development Service, L.L.C. engages in the business of residential real estate ownership and development. Defendant Lifestyle Apartment Development Service, L.L.C. was a general partner in Defendant JPI Apartment Development, L.P. and was involved in the design and construction of Mission Gate, Jefferson Center, and other covered multi-family dwellings.

10. Defendant Jefferson Bend, L.P., also doing business as Jefferson at Mission Gate, is a limited partnership organized under the laws of Delaware and registered to do business in Texas, with its principal place of business at 600 E. Las Colinas Boulevard, Suite 1800, Irving, Texas 75039-5625. Defendant Jefferson Bend, L.P. was an owner and a developer of Mission

Gate during the time of its design and construction. In that capacity, Defendant Jefferson Bend, L.P. was involved in the design and construction of Mission Gate.

11. Defendant Jefferson Lake Creek, L.P., also doing business as Jefferson Center Apartments, is a limited partnership organized under the laws of Delaware and registered to do business in Texas, with its principal place of business at 600 Las Colinas Blvd. East, Suite 1800, Irving, Texas 75039-5625. Defendant Jefferson Lake Creek, L.P. was an owner and a developer of Jefferson Center during the time of its design and construction. In that capacity, Defendant Jefferson Lake Creek, L.P. was involved in the design and construction of Jefferson Center.

12. Defendant Apartment Community Realty, L.L.C. is a limited liability company organized under the laws of Delaware and registered to do business in Texas and other states, with its principal place of business at 600 E. Las Colinas Boulevard, Suite 1800, Irving, Texas 75039-5625. Defendant Apartment Community Realty, L.L.C. engages in the business of residential real estate ownership and development. Defendant Apartment Community Realty, L.L.C. was a general partner in Defendant Jefferson Bend, L.P. and Defendant Jefferson Lake Creek, L.P. and was involved in the design and construction of Mission Gate and Jefferson Center.

#### **Other Properties**

13. The Defendants have designed and constructed 205 or more other multi-family housing properties in 26 states and the District of Columbia. These other multi-family housing properties typically have rental or sales offices.

**Factual Allegations**

14. The properties described in paragraphs 4, 5 and 13 were designed and constructed for first occupancy after March 13, 1991.

15. The properties described in paragraphs 4, 5 and 13 contain “dwellings” as defined by 42 U.S.C. § 3602(b).

16. The properties described in paragraphs 4, 5 and 13 contain “covered multi-family dwellings” within the meaning of 42 U.S.C. § 3604(f).

17. The covered multi-family dwellings at the properties described in paragraphs 4, 5 and 13 are subject to the accessibility requirements of 42 U.S.C. § 3604(f).

18. The covered multi-family dwellings at the properties described in paragraphs 4 and 5 are not designed and constructed in a manner so that:

a. the public use and common use portions of the dwellings therein are readily accessible to and usable by handicapped persons;

b. all doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs;

c. all premises within such dwellings contain the following features of adaptive design:

i. accessible routes into and through the dwellings;

ii. light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; and

iii. usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

19. Some of the covered multi-family dwellings at the properties described in paragraph 13 are not designed and constructed in a manner so that:

- a. the public use and common use portions of the dwellings therein are readily accessible to and usable by handicapped persons;
- b. all doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs;
- c. all premises within such dwellings contain the following features of adaptive design:
  - i. accessible routes into and through the dwellings;
  - ii. light switches, electrical outlets, thermostats, and other environmental controls in accessible locations; and
  - iii. usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

20. The rental or sales offices at the properties described in paragraphs 4, 5 and 13 are public accommodations within the meaning of Section 301(7)(E) of the Americans with Disabilities Act, 42 U.S.C. § 12181(7)(E).

21. The rental or sales offices of the properties described in paragraphs 4, 5 and 13 were designed and constructed for first occupancy after January 26, 1993.

22. The rental or sales offices of the properties described in paragraphs 4, 5 and 13 are subject to the requirements of 42 U.S.C. §§ 12181-12183.

23. The rental or sales offices of the properties described in paragraphs 4 and 5 are not designed and constructed so that they are readily accessible to and usable by individuals with

disabilities, as required by Section 303(a)(1) of the ADA, 42 U.S.C. §12183(a)(1). These rental or sales offices fail to comply with the Department of Justice's regulation implementing Title III of the ADA, 28 C.F.R. Part 36, including the Standards for Accessible Design, 28 C.F.R. Part 36, Appendix A ("the ADA Standards").

24. The rental or sales offices of some of the properties described in paragraph 13 are not designed and constructed so that they are readily accessible to and usable by individuals with disabilities, as required by Section 303(a)(1) of the ADA, 42 U.S.C. §12183(a)(1). These rental offices fail to comply with the Department of Justice's regulation implementing Title III of the ADA, 28 C.F.R. Part 36, including the ADA Standards.

#### **Fair Housing Act Claims**

25. The allegations of paragraphs 1 through 24 are hereby incorporated by reference.

26. The Defendants have failed to design and construct covered multi-family dwellings in the manner set forth in 42 U.S.C. §§ 3604(f)(3)(C).

27. The Defendants' conduct described above violates 42 U.S.C. §§ 3604(f)(1), (f)(2), and (f)(3)(C).

28. The Defendants' conduct constitutes:

a. a pattern or practice of resistance to the full enjoyment of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601 – 3619; or

b. a denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601 – 3619, which raises an issue of general public importance.

29. Persons who may have been the victims of the Defendants' discriminatory housing practices are aggrieved persons as defined in 42 U.S.C. § 3602(i), and may have suffered injuries as a result of the conduct described above.

30. The Defendants' conduct described above was intentional, willful, and taken in disregard for the rights of others.

**Americans with Disabilities Act Claims**

31. The allegations of paragraphs 1 through 24 are hereby incorporated by reference.

32. The Defendants have failed to design and construct the rental or sales offices and other public use areas at the properties described in paragraphs 4 and 5 in a manner required by 42 U.S.C. § 12183(a)(1) and the ADA Standards.

33. The Defendants have failed to design and construct the rental or sales offices and other public use areas at some of the properties described in paragraph 13 in a manner required by 42 U.S.C. § 12183(a)(1) and the ADA Standards.

34. The Defendants' conduct constitutes:

a. a pattern or practice of discrimination within the meaning of 42 U.S.C. § 12188(b)(1)(B)(i) and 28 C.F.R. § 36.503(a); or

b. unlawful discrimination that raises an issue of general public importance within the meaning of 42 U.S.C. § 12188(b)(1)(B)(ii) and 28 C.F.R. § 36.503(b).

35. Persons who may have been the victims of the Defendants' discriminatory conduct are aggrieved persons as defined in 42 U.S.C. § 12188(b)(2)(B), and may have suffered injuries as a result of the conduct described above.



36. The Defendants' conduct described above was intentional, willful, and taken in disregard for the rights of others.

**Prayer for Relief**

WHEREFORE, the United States prays that the Court enter an order that:

1. Declares that the Defendants' conduct as alleged herein violates the Fair Housing Act and the Americans with Disabilities Act;

2. Enjoins the Defendants, their officers, employees, agents, successors, and all other persons in active concert or participation with any of them, from:

a. at the properties identified in paragraphs 4 and 5, failing or refusing to bring the covered multi-family dwelling units and public use and common use areas into full compliance with 42 U.S.C. § 3604(f);

b. at the properties identified in paragraphs 4 and 5, failing or refusing to conduct a compliance survey to determine whether the retrofits ordered in paragraph (a), above, were made properly;

c. at the properties identified in paragraphs 13 and all other covered multi-family dwellings built for first occupancy after March 13, 1991, in which any Defendant was involved in the design and construction, failing or refusing to: (i) if not already done, conduct a compliance survey to identify violations of 42 U.S.C. § 3604(f), and (ii) with respect to any violations found, failing to retrofit the covered multi-family dwelling units and public and common use areas to bring them into compliance with the requirements of 42 U.S.C. § 3604(f);

d. designing or constructing any covered multi-family dwellings in the future that do not comply with 42 U.S.C. § 3604(f); and

e. failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the Defendants' unlawful practices to the position they would have been in but for the discriminatory conduct.

3. Enjoins the Defendants, their officers, employees, agents, successors and all other persons in active concert or participation with any of them from:

a. at the properties identified in paragraphs 4 and 5, failing or refusing to bring the public accommodations, including the rental offices, into full compliance with 42 U.S.C. § 12183(a)(1), 28 C.F.R. §§36.401 and 36.406, and 28 C.F.R. Part 36, Appendix A;

b. at the properties identified in paragraphs 4 and 5, failing or refusing to conduct a compliance survey to determine whether the retrofits ordered in paragraph (a), above, were made properly;

c. at the properties identified in paragraph 13 and at all other covered multi-family dwellings, with respect to the areas that are public accommodations, including rental or sales offices, designed and constructed by any of the Defendants for first occupancy after January 26, 1993, failing or refusing to: (i) if not already done, conduct a compliance survey of these public accommodations to identify violations of 42 U.S.C. § 12183(a)(1), 28 C.F.R. §§36.401 and 36.406, and 28 C.F.R. Part 36, Appendix A, and (ii) with respect to any violations found, retrofit the public accommodations areas to bring

them into compliance with the requirements of the Americans with Disabilities Act and the ADA Standards;

d. designing or constructing any public accommodations at any covered multi-family dwellings in the future that do not comply with 42 U.S.C. §12183(a)(1), 28 C.F.R. §§36.401 and 36.406, and 28 C.F.R. Part 36, Appendix A; and

e. failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of the Defendants' unlawful practices to the position they would have been in but for the discriminatory conduct.

4. Awards such monetary damages as would fully compensate each person for injuries resulting from the above described discriminatory conduct against the Defendants pursuant to 42 U.S.C. §3614(d)(1)(B) and 42 U.S.C. § 12188(b)(2)(B);

5. Assesses a civil penalty against each of the Defendants in the maximum amount authorized by 42 U.S.C. §3614(d)(1)(C) and 42 U.S.C. §12188(b)(2)(C), to vindicate the public interest.

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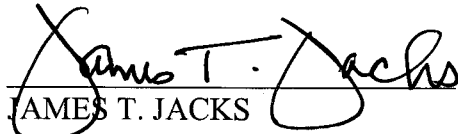
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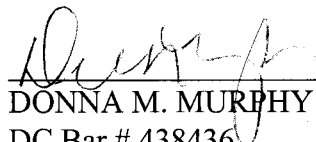
The United States further prays for such additional relief as the interests of justice may require.

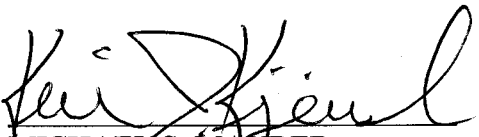
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202-514-1116 (fax)

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

ORIGINAL

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff n/a  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

US Dept of Justice, 950 Penn Ave, NW, Wash, DC 20240-4713  
US Atty's Office, ND Tex, 1100 Commerce St, 300, Dallas, TX

## DEFENDANTS

JPI Construction, LP, Multifamily Constr, LLC, JPI Apt Develop, LP, Lifestyle Apt Develop Svc, LLC, et al.

County of Residence of First Listed Defendant Dallas  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Christopher Hanback, Holland & Knight, 2099 Penn Ave, NW, Washington, DC 20006 202-955-3000

## II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |   |   |  |
|---|---|---|--|
| Citizen of This State                   | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | PTF <input type="checkbox"/> 4 DEF <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | PTF <input type="checkbox"/> 2 DEF <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | PTF <input type="checkbox"/> 5 DEF <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | PTF <input type="checkbox"/> 3 DEF <input type="checkbox"/> 3 | Foreign Nation  | PTF <input type="checkbox"/> 6 DEF <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT

(Place an "X" in One Box Only)

| CONTRACT   | TORTS  | FORFEITURE/PENALTY   | BANKRUPTCY   | OTHER STATUTES   |
|--|--|--|--|--|
| <input type="checkbox"/> 110 Insurance<br><input type="checkbox"/> 120 Marine<br><input type="checkbox"/> 130 Miller Act<br><input type="checkbox"/> 140 Negotiable Instrument<br><input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment<br><input type="checkbox"/> 151 Medicare Act<br><input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)<br><input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits<br><input type="checkbox"/> 160 Stockholders' Suits<br><input type="checkbox"/> 190 Other Contract<br><input type="checkbox"/> 195 Contract Product Liability<br><input type="checkbox"/> 196 Franchise | <b>PERSONAL INJURY</b><br><input type="checkbox"/> 310 Airplane<br><input type="checkbox"/> 315 Airplane Product Liability<br><input type="checkbox"/> 320 Assault, Libel & Slander<br><input type="checkbox"/> 330 Federal Employers' Liability<br><input type="checkbox"/> 340 Marine<br><input type="checkbox"/> 345 Marine Product Liability<br><input type="checkbox"/> 350 Motor Vehicle<br><input type="checkbox"/> 355 Motor Vehicle Product Liability<br><input type="checkbox"/> 360 Other Personal Injury<br><b>PERSONAL INJURY</b><br><input type="checkbox"/> 362 Personal Injury - Med. Malpractice<br><input type="checkbox"/> 365 Personal Injury - Product Liability<br><input type="checkbox"/> 368 Asbestos Personal Injury Product Liability<br><b>PERSONAL PROPERTY</b><br><input type="checkbox"/> 370 Other Fraud<br><input type="checkbox"/> 371 Truth in Lending<br><input type="checkbox"/> 380 Other Personal Property Damage<br><input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 610 Agriculture<br><input type="checkbox"/> 620 Other Food & Drug<br><input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881<br><input type="checkbox"/> 630 Liquor Laws<br><input type="checkbox"/> 640 R.R. & Truck<br><input type="checkbox"/> 650 Airline Regs.<br><input type="checkbox"/> 660 Occupational Safety/Health<br><input type="checkbox"/> 690 Other | <input type="checkbox"/> 422 Appeal 28 USC 158<br><input type="checkbox"/> 423 Withdrawal 28 USC 157<br><b>PROPERTY RIGHTS</b><br><input type="checkbox"/> 820 Copyrights<br><input type="checkbox"/> 830 Patent<br><input type="checkbox"/> 840 Trademark<br><b>LABOR</b><br><input type="checkbox"/> 710 Fair Labor Standards Act<br><input type="checkbox"/> 720 Labor/Mgmt. Relations<br><input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act<br><input type="checkbox"/> 740 Railway Labor Act<br><input type="checkbox"/> 790 Other Labor Litigation<br><input type="checkbox"/> 791 Empl. Ret. Inc. Security Act<br><b>IMMIGRATION</b><br><input type="checkbox"/> 462 Naturalization Application<br><input type="checkbox"/> 463 Habeas Corpus - Alien Detainee<br><input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 400 State Reapportionment<br><input type="checkbox"/> 410 Antitrust<br><input type="checkbox"/> 430 Banks and Banking<br><input type="checkbox"/> 450 Commerce<br><input type="checkbox"/> 460 Deportation<br><input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations<br><input type="checkbox"/> 480 Consumer Credit<br><input type="checkbox"/> 490 Cable/Sat TV<br><input type="checkbox"/> 810 Selective Service<br><input type="checkbox"/> 850 Securities/Commodities/Exchange<br><input type="checkbox"/> 875 Customer Challenge 12 USC 3410<br><input type="checkbox"/> 890 Other Statutory Actions<br><input type="checkbox"/> 891 Agricultural Acts<br><input type="checkbox"/> 892 Economic Stabilization Act<br><input type="checkbox"/> 893 Environmental Matters<br><input type="checkbox"/> 894 Energy Allocation Act<br><input type="checkbox"/> 895 Freedom of Information Act<br><input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice<br><input type="checkbox"/> 950 Constitutionality of State Statutes |

## V. MEDICARE

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
Fair Housing Act, 42 U.S.C. SS 3601 et seq.; ADA, 42 U.S.C. SS 12181 et seq.

Brief description of cause:  
Violated Fair Housing Act & ADA in design & construction of inaccessible multifamily dwellings

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

03/04/2009

SIGNATURE OF ATTORNEY OF RECORD

JOHN R. PARKER, Assistant United States Attorney

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE